

**RESOLUTION
ZONING BOARD OF ADJUSTMENT
TOWNSHIP OF LIVINGSTON
NEW JERSEY**

Case # 2012-15-V

Motion by: Mr. Hochberg

Second by: Mr. Nardone

FINDINGS AND CONCLUSIONS

The Zoning Board of Adjustment of the Township of Livingston, having considered the Application and plans filed in this matter, and the testimony and evidence presented at the hearing on April 24, 2012, the following findings of fact and conclusions are made:

1. The applicant is Paul Fornadel.
2. The property is commonly known as 2 Post Lane and is taxed as Block 5400 Lot 14. The property is in the R-2 Zone.
3. The applicant has satisfied the statutory procedural requirements of service and publication of notice, and there are no taxes or assessments due or in arrearages.
4. The applicant intends to relocate a fence on his property.
5. Violation of Livingston Zoning Ordinance
 - (a) Section 170-91B(3)(c) Side Yard Fence Facing Street or Public Right-of-Way (48" allowed, 72" proposed; 24" variance requested)
 - (b) Section 170-91B(3)(c) Side Yard Fence Facing Street or Public Right-of-Way (50% open allowed, closed fence proposed)
 - (c) Section 170-91B(7) Side Yard Fence Facing Street or Public Right-of-Way Setback (3' required, 0' proposed; 3' variance requested)
6. The following persons testified at the hearing: The applicant.
7. The following persons objected to or expressed interest in the application at the hearing: none.
8. The applicant's fence was on the property of PSE&G and he is being required to relocate 70.61 feet of the fence to his property which is adjacent to Eisenhower Parkway where the speed limit is 50 miles per hour with substantial vehicular traffic.

The applicant has satisfied the statutory requirements of N.J.S.A. 49:55D-70 (c)(1) for the relief sought by demonstrating that an undue or exceptional hardship would be imposed upon the applicant by a denial due to the adjacent roadway and its substantial traffic load.

The variance is conditioned on the applicant installing a gate so the Township can access its sanitary sewer easement over which the fence will be built. Also the Engineering Department must approve the location of the fence and gate.

Now, therefore, be it **RESOLVED** by the **ZONING BOARD OF ADJUSTMENT** of the Township of Livingston that the application herein submitted is granted for the following variances:

Fence height variance of two feet to allow a six foot fence in the side yard;
Fence facing public street variance to allow 100% closed; and
Fence facing public street setback variance of three feet (3').

This approval is subject to all other requirements of the Township ordinances, building code, and the right of appeal by any interested party. Also, as required by Livingston Ordinance 170-27(A), construction must be commenced within one year of the date hereof or the variance shall expire.

Copies of the Applicant's survey showing the proposed improvements are attached hereto as an exhibit to indicate the final version thereof.

The Resolution is a memorialization of the action of the Board of Adjustment of the Township of Livingston taken on April 24, 2012 in which Board voted to approve the application in accordance with and subject to the conditions and terms set forth herein on the record.

CHAIRMAN:



ALAN OZAROW

Dated: May 22, 2012

Prepared by: Herbert S. Ford, Esq.